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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/540,938	08/29/2005	Steve Alister Nixon	13877/15801	8708
26646	7590	01/03/2008		
KENYON & KENYON LLP ONE BROADWAY NEW YORK, NY 10004			EXAMINER PENG, KUO LIANG	
			ART UNIT 1796	PAPER NUMBER
			MAIL DATE 01/03/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 10/540,938	Applicant(s) NIXON, STEVE ALISTER	
	Examiner Kuo-Liang Peng	Art Unit 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 2/6/07 IDS.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-4 and 6-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-21 is/are rejected.
- 7) ☒ Claim(s) 1-3 and 5-21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>2/6/07, 9/30/05</u> | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. The Applicants' preliminary amendment and supplemental preliminary amendment filed June 29, 2005 and April 18, 2007, respectively, are acknowledged. Claims 1, 3, 5-7 and 9-10 are amended. Claim 4 is deleted. Claims 11-21 are added. Now, 1-3 and 5-21 are pending.

#### *Specification*

2. The disclosure is objected to because of the following informalities:

Applicants should notice that a Brief Description of Drawings is missing.

In the specification (page 3, line 25), the term "alkoxy-functional" causes confusion because the polysiloxane illustrated in the formula recited thereafter does **not necessarily** possess an alkoxy-functional group.

In the specification (page 3, line 25), the term "branched" causes confusion because the polysiloxane illustrated in the formula recited thereafter is **linear**.

Appropriate correction is required.

#### *Claim Objections*

3. Claims 1-3 and 5-21 are objected to because of the following informalities:

In Claim 1 (line 9), should "Rl" be -- R1 --?

In Claim 1 (line 10), should "hydrogen and alkyl" be -- hydrogen, alkyl --?

In Claim 1 (lines 3 and 14-15), should "-" be removed?

In Claim 1 (line 8), should "aryl, and alkoxy" be -- aryl, alkoxy --?

In the instant claims, if applicable, Applicants are advised to replace "characterized in that" with -- wherein --.

Appropriate correction is required.

4. Claims 3 and 13 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form.

### ***Claim Rejections - 35 USC § 112***

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-3 and 5-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In Claim 1 (line 3), "branched" causes confusion because the polysiloxane depicted in the formula in line 4 is linear.

In Claim 1 (line 3), "alkoxy-functional" causes confusion because the scopes of R1 and R2 do **not necessarily** support the presence of the alkoxy-functional group.

Claims 7 (line 4), 8 (lines 4-5), 17 (line 4), 18 (line 4), 19 (line 4), 20 (line 5) and 21 (line 5) recite the limitation "the olefinically unsaturated monomers". There is insufficient antecedent basis for this limitation in the instant claims.

***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-3 and 5-21 are rejected under 35 U.S.C. 102(b) as being anticipated by Yang (WO 99/31179).

The following column and line numbers are based on Yang's U.S. equivalent, US 6 403 711.

Yang discloses an ambient temperature curable composition comprising an alkoxy-functional polysiloxane, an amino-functional silane such as an aminosilane, an acrylic polymer that can be substantially free of functional groups reactive to the polysiloxane or the amino-functional silane. (col. 2, lines 19 to col. 3, line 65, col. 6, line 53 to col. 7, line 4 and col. 9, lines 6-22) The amino-functional silane reads on the claimed amino-functional catalyst. As such, the amino-functional silane can function as a catalyst, too. The molecular weight of the alkoxy-functional polysiloxane can have a molecular weight described in col. 2, lines 35-45. The solid content is exemplified in Examples. Notably, since the alkoxy-functional polysiloxane reads on the claimed on, it can also be considered as **branched**. (Emphasis added) The acrylic polymer can be obtained by polymerization in the polysiloxane. (Examples) The glass transition temperature of the acrylic polymer is described in col. 3, lines 37-65. The amounts of the acrylic polymer, the acrylate monomers and the polysiloxane are exemplified in Examples. The composition can be used on concrete, etc. (col. 10, lines 4-30)

9. The "X" references cited in the international search report are not relied upon because of the following reason:

US 6 231 990 (EP 1 063 270) does not teach or fairly suggest a polysiloxane containing Si-OR. (col. 2, lines 6-21)

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kuo-Liang Peng whose telephone number is (571) 272-1091. The examiner can normally be reached on Monday-Friday from 8:30 AM to 5:00 PM.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jim Seidleck, can be reached on (571) 272-1078. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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klp  
December 31, 2007

  
Kuo-Liang Peng  
Primary Examiner  
Art Unit 1796